

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

IN RE:

Joeanne Chisolm

Debtor.

C/A No. 14-04601

Chapter 13

**NOTICE OF MOTION/APPLICATION
AND OPPORTUNITY FOR HEARING**

TAKE NOTICE that Joeanne Chisolm filed a MOTION FOR MORATORIUM OF PAYMENTS UNDER CHAPTER 13 PLAN.

TO THE FOLLOWING CREDITORS: All Creditors.

A copy of the motion and proposed order accompanies this notice.

TAKE FURTHER NOTICE that any response, return, and/or objection to this motion should be filed with the Court no later than twenty-one (21) days from service of motion and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this motion, except at the direction of the judge, unless a response, return, and/ or objection is timely filed and served, in which case, the Court will conduct a hearing on June 20, 2016 at 10:00 a.m., at the J. Bratton Davis United States Bankruptcy Court, 1100 Laurel Street, Columbia, South Carolina, 29201. No further notice of this hearing will be given.

Date: Tuesday, May 17, 2016.

/s/ Eric S. Reed
Eric S. Reed
Reed Law Firm, P.A.
Attorney for Movant/Movant
D.C. ID # 7242
220 Stoneridge Drive, Ste 301
Columbia, SC 29210
(803)726-4888

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

IN RE: Joeanne Chisolm <u>Debtor(s).</u>	C/A No. 14-04601 Chapter 13
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MOTION FOR MORATORIUM UNDER CHAPTER 13 PLAN

COMES NOW, Joeanne Chisolm (“Debtor”), by and through her undersigned counsel, files this Motion for Moratorium of Payments under Chapter 13 Plan (“Moratorium Motion”), which requests a moratorium of plan payments for a period of two months.

Debtor filed for Chapter 13 relief under the Bankruptcy Code on August 14, 2014. Debtor’s Chapter 13 Plan (“Plan”) was confirmed on November 18, 2014. Debtor’s Plan requires for monthly payments of \$410.00 for a period of 3 months, followed by monthly payments of \$470.00 for a period of 16 months, followed by monthly payments of \$265.00 for a period of 41 months. A Motion for Moratorium is judged as a motion to modify the confirmed Chapter 13 plan pursuant to 11 U.S.C. § 1329.¹ See In re Wilson, C/A No. 96-75601-W, slip op. at 2 (Bankr. D.S.C. May 20, 1997). The Court issued In re Wilson to provide the Chapter 13 Bar with guidance concerning the requirements of a Motion for Moratorium of Payments under a Chapter 13 Plan. In re Wilson, slip op. at 1. The party moving to modify a confirmed Chapter 13 plan has the burden of showing an unanticipated, substantial change in circumstances warrants modification of the plan. In re Wilson, slip op. at 4. Such a substantial change in circumstances may be a change in the debtor’s financial condition after confirmation. In re Wilson, slip op. at 3-4 (quoting Arnold v. Weast (In re Arnold), 869 F.2d 240, 241 (4thCir. 1989). In order to satisfy the burden required for a motion to modify a confirmed Chapter 13 plan to defer payments for a

¹ Further references to the United States Bankruptcy Code, 11 U.S.C. § 101 *et. seq.*, shall be by section number only.

period of time, a debtor must demonstrate a substantial change in circumstances and demonstrate that the plan satisfies § 1322(b), § 1322(c), § 1325(a), and § 1329(c). Id. at 4. In In re Wilson, the Court explained the following facts that a debtor must allege in order to meet this burden:

the number of months for which the debtor proposes to defer payments to the trustee; a good faith reason why modification of the plan is necessary; an explanation as to why the needed deferral of payments does not render the plan unfeasible; an explanation as to how the debtor will be able to resume the payments to the trustee at the end of the period during which payments are deferred; a statement of the number of payments which have come due to the trustee under the plan as of the filing of the motion; and a statement of the total number of months the confirmed plan is to run and whether the granting of the modification will cause the plan to exceed the plan term limit set forth in § 1329(c).

In re Wilson, slip op. at 5.

Debtor proposes to defer her Plan payments for a period of two months. Debtor propose this plan modification in good faith as she has experienced a substantial change in financial circumstances subsequent to her Plan's confirmation. Debtor was in a car accident and she is struggling to get caught up on her bills. A deferral of the plan payments would allow Debtor to succeed in this plan and would not make it unfeasible.

Debtors' Plan, which includes the two month moratorium, will not exceed the plan term limit set forth in § 1329(c), as "the five year limitation period imposed by § 1329(c) does not commence on the date that the first payment is due but rather on the date that the first payment after confirmation is due." In re Stroud, C/A No. 07-04502-jw, slip op. at 2 (Bankr. D.S.C. March 5, 2008)(citations omitted). Three payments had come due prior to confirmation. Thus, tacking on two monthly payments to the end of Debtor's Plan will not result in the Plan exceeding the plan term limit of § 1329(c).

WHEREFORE, Debtor moves this Court for an Order granting Debtors' Moratorium Motion or for whatever relief the Court deems just and appropriate.

Respectfully submitted.

Reed Law Firm, P.A.

By: /s/ Eric S. Reed

Eric S. Reed

Federal I.D. No. 7242

220 Stoneridge Drive, Suite 301

Columbia, South Carolina 29210

(803) 726-4888

Attorney for the Debtor

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

Joeanne Chisolm

Debtor(s).

C/A No.: 14-04601

Chapter 13

The undersigned hereby certifies that she properly served the foregoing Moratorium to all creditors on the attached mailing matrix by first class mail, postage prepaid.

May 17, 2016

/s/ Tina Olszyk

Tina Olszyk

Legal Assistant

Reed Law Firm, P.A.

220 Stoneridge Drive, Suite 301

Columbia, South Carolina 29210

(803) 726-4888

Label Matrix for local noticing
0420-3
Case 14-04601-dd
District of South Carolina
Columbia
Tue May 17 11:54:58 EDT 2016

ANDERSON BROTHERS BANK
PO BOX 310
MULLINS SC 29574-0310

ATTORNEY GENERAL OF THE UNITED STATES
DEPT OF JUSTICE ROOM 5111
10TH AND CONSTITUTION AVENUE NW
Washington DC 20530-0001

AUTO CREDIT OF COLUMBIA LLC
PO BOX 57545
JACKSONVILLE FL 32241-7545

Aaron's SALO Lockbox
P.O. Box 102746
Atlanta, GA 30368-2746

Afni
ATTENTION: BANKRUPTCY
1310 MARTIN LUTHER KING DR
BLOOMINGTON IL 61701-1465

(p)TRITON MANAGEMENT GROUP
P O BOX 241525
MONTGOMERY AL 36124-1525

Anderson Brothers Bank
2985 South Cashua Drive
Florence SC 29501-6326

Ashro Lifestyle
c/o Creditors Bankruptcy Service
P.O. Box 800849
Dallas, TX 75380-0849

BellSouth Telecommunications, Inc.
c/o AT&T Services Inc.
Karen A. Cavagnaro - Lead Paralegal
One AT&T Way, Room 3A 104
Bedminster, NJ 07921-2693

Blue Shield
PO Box 272560
Chico CA 95927-2560

Joeanne Chisolm
1204 Dicey Creek Rd
Camden, SC 29020-2522

Cntry Door
ATTN:BANKRUPTCY
PO BOX 2830
MONROE WI 53566-8030

Country Door
c/o Creditors Bankruptcy Service
P.O. Box 800849
Dallas, TX 75380-0849

EquiCredit Corporation of America
c/o Select Portfolio Servicing, Inc.
3815 S. West Temple
Salt Lake City, UT 84115-4412

FHA c/o
US Dept of Housing & Urban Development
451 7th Street, SW
Washington DC 20410-0002

Ginnys/Swiss Colony Inc
ATTN: BANKRUPTCY
1112 7TH AVE
MONROE WI 53566-1364

IRS
PO Box 7346
Philadelphia PA 19101-7346

KERSHAW COUNTY
515 WALNUT STREET
Camden SC 29020-3649

KERSHAW COUNTY MEDICAL CENTER
PO BOX 7003
Camden SC 29021-7003

Travis E. Menk
Brock & Scott, PLLC
5121 Parkway Plaza Blvd.
Charlotte, NC 28217-1965

Eric S Reed
Reed Law Firm, PA
220 Stoneridge Dr., Suite 301
Columbia, SC 29210-8018

SC DEPARTMENT OF REVENUE
PO BOX 12265
Columbia SC 29211-2265

SC EMPLOYMENT SECURITY COMMISSION
PO BOX 995
Columbia SC 29202-0995

SENTINEL HEALTH PARTNERS
PO BOX 1259
Camden SC 29021-1259

Select Portfolio Servicing
PO BOX 65250
SALT LAKE CITY UT 84165-0250

Seventh Avenue
c/o Creditors Bankruptcy Service
P.O. Box 800849
Dallas, TX 75380-0849

Pamela Simmons-Beasley
1813 Laurel Street
Columbia, SC 29201-2626

US Trustee's Office
Strom Thurmond Federal Building
1835 Assembly Street
Suite 953
Columbia, SC 29201-2448

US ATTORNEYS OFFICE
JOHN DOUGLAS BARNETT ESQ
1441 MAIN STREET
STE 500
Columbia SC 29201-2897

USDA
PO BOX 66827
Saint Louis MO 63166-6827

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Always Money
1640 Springdale Drive
Suite C
Camden SC 29020

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